IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7094 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BILESHWAR KHAND UDYOG SAHKARI MANDLI LTD

Versus

UKABHAI GOVINDBHAI

Appearance:

MR SIRAJ FOR MR PM RAVAL for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/05/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the petitioner and perused the impugned order of the Gujarat State Cooperative Tribunal, Ahmedabad.

#. It is true that the earlier suit filed by petitioner

was not decided on merits. The learned counsel for the petitioner may be correct that the same may not amount to res-judicata. However, that suit has been withdrawn unconditionally which is clearly borne out from the document annexure-B. It was not a case which was decided on compromise. This document annexure-B has not been signed by defendant therein. It was only signed by plaintiff and once the suit has been withdrawn, it is barred by provisions of Order 2, Rule 2, Civil Procedure Code or it is also barred by provisions of Rule 4 of Order 23, Civil Procedure Code. The learned counsel for the petitioner does not dispute that provisions of Civil Procedure Code are not applicable to Lavad suits. Otherwise also, those principles may apply to these proceedings also, otherwise, there may not be any finality to the litigation. The reasons given by the Tribunal for allowing the revision application of the other side even if may not be correct, if with reference to the other provisions of the Civil Procedure Code, the second suit is barred, this court cannot interfere with the order impugned.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

.....

(sunil)